

Remarks

Claims 1-16 and 19-36 are pending.

Claims 1-16 and 19-34 were rejected under Section 103 as being obvious over Fleming (6530018) or Fleming in view of Nykanen (6574678). Claims 35 and 36 were rejected under Section 103 as being obvious over Fleming in view of Edelstein (6378128). The rejections are based on the assertion that Fleming suggests instructing a user to connect the hardware device to the computer if it is determined that the hardware device is not connected to the computer. For the reasons noted below, this assertion is not correct.

Fleming Does Not Suggest Instructing A User To Connect A Device To The Computer

Claim 1 is directed to a system that includes a means for instructing a user to connect the hardware device if it is determined that the hardware device is not connected to the computer system. (Independent Claims 9, 19, 27, 35 and 36 include similar limitations.) The Examiner acknowledges that Fleming does not teach this limitation, but asserts the limitation is an obvious modification/addition to Fleming.

Fleming detects the presence of a hardware device connected to the system: "the system starts by detecting the presence of device 102 within computer system 108 (step 302)." Fleming, column 4, lines 57-58. Fleming clearly contemplates detecting a device that has already been connected. That is to say, Fleming does not *determine if* any particular device is present. Rather, Fleming *detects that* the device is present. Quite logically, therefore, Fleming makes no provision for prompting the user to connect a device if the device is not detected as already being present on the computer system. In Fleming, a device that is not detected is irrelevant -- Fleming has no interest in any device that is not already connected to the system.

Claim 1, by contrast, focuses on getting the target device connected if it is not already connected. Claim 1, therefore, includes a means for determining if the device is connected and a means for instructing the user to connect the device if it is determined that the device is not already connected.

It is axiomatic, as the Examiner correctly notes, that the main purpose of a detection mechanism is to detect the presence of a device (Office Action, page 8). After all, that is what a detector does -- it detects things. One might also goes so far as to say, as the Examiner does, that the main purpose also includes taking "appropriate action" if a device is not detected, but only if *doing nothing* is deemed an appropriate action. Doing nothing is, after all, the only "appropriate action" that can be reasonably be attributed to Fleming in the event a device is not detected *because Fleming is completely silent on what happens if a device is not detected – Fleming's system STARTS when the device is detected.* Doing nothing is the only "appropriate action" that might reasonably be deemed obvious from Fleming.

There is nothing, absolutely nothing, in Fleming that even remotely suggests instructing a user to install a device. The Examiner's conclusion of obviousness is classic hindsight. Nobody reading Fleming would give any thought at all to what happens when a device is not detected (other than doing nothing) without having first read the instant application. Obviousness can only be established by modifying the teachings of the prior art where there is some teaching, suggestion, or motivation to do so found either in the reference or in the knowledge generally available to one of ordinary skill in the art. MPEP 2144. It is impermissible for the Examiner to look to the Applicant's own teachings for the motivation to modify. MPEP 2142.

The rejections should be withdrawn for this reason alone.

Edelstein Does Not Teach The Windows Installer Determining Limitations In Claims 35 and 36

Claim 35 recites:

determining if an operating system on the computer includes a Windows installer service;

if it is determined that the operating system does not include a Windows installer service, then removing any driver for the device provided by the operating system and setting up the operating system to use a driver provided with the device; and

if it is determined that the operating system includes a Windows installer service, then updating any driver for the device associated with the Windows installer

service with a driver provided with the device.

Claim 36, which is the computer medium counterpart to the method of Claim 35, contains similar limitations. The Examiner asserts incorrectly that Edelstein teaches these limitations.

Edelstein teaches adding an intelligent install module to the Windows Installer to provide functionality for dynamically creating or modifying the install-set for installing an application program. Edelstein, column 6, lines 32-36. Edelstein does make any determination that the operating system does or does not include a Windows installer. Rather, Edelstein assumes the Windows Installer exists in the operating system. It necessarily follows, therefore, that Edelstein does not take any action in response to any such determination. Specifically, Edelstein does not teach removing a driver if it is determined the operating system does not include a Windows Installer, or updating a driver if it is determined that the operating system does include a Windows Installer. Indeed, Edelstein doesn't have anything to do with device drivers.

The Examiner asserts that "operable to detect" at column 6, line 29 in Edelstein teaches determining that the operating system does not include a Windows Installer. The Examiner's assertion is not correct. The cited passage refers to "a WINDOWS INSTALLER program module that is operable to detect and install a new application program module 136...." This passage doesn't say anything about determining that the operating system does not include a Windows Installer. Indeed, it is clear that the operating system does include a Windows Installer.

The Examiner asserts that "install a new application program module" at column 6, line 31 in Edelstein teaches removing a driver provided by the operating system. The Examiner's assertion is not correct. The cited passage refers to "a WINDOWS INSTALLER program module that is operable to detect and install a new application program module 136...." This passage doesn't say anything about removing a device driver or any other programming.

The Applicant respectfully submits that Edelstein really doesn't have any relevance at all the subject matter of Claims 35 and 36. The rejection of Claims 35 and 36 should be withdrawn.

The foregoing is believed to be a complete response to the outstanding Office Action.

Respectfully submitted,
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